



**DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

**King Wong, M.D.;
Decision and Order**

On November 12, 2019, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC) to King Wong, M.D. (hereinafter, Registrant). OSC, at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. AL1804409. *Id.* It alleged that Registrant is without "authority to handle controlled substances in California, the state in which [Registrant is] registered with the DEA." *Id.* (citing 21 U.S.C. §§ 823(f) and 824(a)(3)).

Specifically, the OSC alleged that Registrant surrendered his medical license pursuant to an agreement with the Medical Board of California on March 18, 2019, and that his license remains surrendered. *Id.* at 1-2. The OSC further alleged that because Registrant surrendered his medical license, Registrant lacks the authority to handle controlled substances in the State of California. *Id.* at 2.

The OSC notified Registrant of the right to either request a hearing on the allegations or submit a written statement in lieu of exercising the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 C.F.R. § 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. § 824(c)(2)(C)).

A DEA Diversion Investigator personally served Registrant with the OSC on December 13, 2019, and Registrant signed a DEA Form 12, Receipt for Cash or Other Items, to acknowledge his receipt of the OSC. Request for Final Agency Action Exhibit (hereinafter, RFAAX) 8, at 2-3 (Declaration of Diversion Investigator); RFAAX 5 (DEA Form 12 signed by Registrant). I find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations, I

find that neither Registrant, nor anyone purporting to represent Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. RFAAX 8, at 3; RFAAX 6 (Emails regarding no communication from Registrant). Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement and corrective action plan. 21 C.F.R. § 1301.43(d) and 21 U.S.C. § 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 C.F.R. § 1301.46.

Findings of Fact

Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. AL1804409 at the registered address of 2392 N. Euclid Ave, Upland, CA 91784. RFAAX 1 (Registrant's DEA Certificate of Registration). Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration will expire on its own terms on March 31, 2022. *Id.*

The Status of Registrant's State License

On March 5, 2019, Registrant and the Medical Board of California entered into a Stipulated Surrender of License and Order, whereby Registrant surrendered his California medical license. RFAAX 3. The Medical Board of California's online records, of which I take official notice, document that Registrant's license is still surrendered.¹ Medical Board of California License Verification, https://www.mbc.ca.gov/Breeze/License_Verification.aspx (last visited date of signature of this Order).

¹ Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding – even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. § 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration within fifteen calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Registrant files a motion, the Government shall have fifteen calendar days to file a response. Any such motion and response may be filed and served by e-mail (dea.addo.attorneys@dea.usdoj.gov).

Accordingly, I find that Registrant currently is not licensed to engage in the practice of medicine in California, the state in which Registrant is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 Fed. Reg. 71,371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. § 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. § 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 Fed. Reg. at 71,371-72; *Sheran Arden Yeates, M.D.*, 71 Fed. Reg. 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104, 51,105 (1993);

Bobby Watts, M.D., 53 Fed. Reg. 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 Fed. Reg. at 27,617.

According to California statute, “[n]o person other than a physician . . . shall write or issue a prescription.” Cal. Health & Safety Code § 11150 (West 2020). Further, “physician,” as defined by California statute, is a person who is “licensed to practice” in California. *Id.* at § 11024.

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in California. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in California. Thus, because Registrant lacks authority to practice medicine in California and, therefore, is not authorized to handle controlled substances in California, Registrant is not eligible to maintain a DEA registration. Accordingly, I will order that Registrant’s DEA registration be revoked.

Order

Pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 824(a), I hereby revoke DEA Certificate of Registration No. AL1804409 issued to King Wong, M.D. Further, pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 823(f), I hereby deny any pending application of King Wong, M.D. to renew or modify this registration. This Order is effective **[date thirty days after publication in Federal Register]**.

Timothy J. Shea,
Acting Administrator.